

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.5432 of 2013

In
Civil Writ Jurisdiction Case No.12709 of 2012

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Dr. Ram Naresh Sharma, Son of Late Ram Vilas Sharma, Resident of Village and Post Officer - Gaini, P.S.- Khudwan, District - Aurangabad (BIHAR) At present working as Associate Professor in the University Department of Political Sceince J.P. University, Chapra

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dr. Sri Niwas Dubey, Son of name not known to the petitioner, Posted and working as the Vice Chancellor, Jai Prakash University, Chapra
3. Prof. Bijay Pratap Kumar, Son of name not known to the petitioner, Posted and working as the Registrar, Jai Prakash University, Chapra

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Mrityunjaya Kr.Gautam, Advocate
For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 09-11-2017

The applicant herein filed a writ petition in the year 2012 and it was his case that a Selection Committee of the University met on 18.01.2011 and made recommendation for granting promotion to the petitioner on the post of Reader with effect from 19.09.1988 and on the same day the Selection Committee again recommended for his promotion on the post of Professor with effect from 19.09.1996. When the petitioner came out with a grievance that the University is not implementing the recommendation of the Committee, the Writ Court passed the following order:-



“Rather than to ask for a counter affidavit, even if there be no vested right to promotion based on a recommendation, yet denial cannot be arbitrary unless there be valid germane and cogent reasons for not acting under the recommendations.

Let the University take a final decision on the recommendation, in accordance with law, within a maximum period of two months from the date of receipt and/or production of a copy of this order.

The application stands disposed.”

Inter alia contending that within a period of two months, this order has not been complied with and the order of the Selection Committee has not been implemented, this contempt application was filed.

Today, a show-cause has been filed by the University, pointing out that the correct facts of the issue in question was not placed before the Vice Chancellor of the University and immediately when this Court on the last date directed the University to take action and submit a compliance report, failing which coercive action would be taken, the Vice Chancellor examined the entire issue, submits an unqualified and unconditional apology and points out to this Court the following issues:-



How and under what circumstances could the Selection Committee in one meeting held on 18.01.2011 recommend for promotion of the petitioner to two posts i.e. from the post of Lecturer to Reader and thereafter from the post of Reader to Professor.

I find much force in the submission. It is not known as to even without working as a Reader how the petitioner could be recommended for promotion as a Professor. That apart the Vice Chancellor has pointed out that the recommendation of the Selection Committee as per the Statute are required to be placed before the Syndicate for approval and in this case the case of the petitioner based on the recommendation was placed before the Syndicate for approval and the Syndicate has granted promotion from the post of Lecturer to the post of Reader for which appropriate notifications and action is being taken. As far as further promotion to the post of Professor is concerned, it is stated that the matter is to be considered afresh in accordance to the Merit Promotion Scheme and as and when the petitioner submits an application, the same would be considered.

If the order passed by the Writ Court is taken note of, it has been observed by the learned Writ Court that even though recommendation has been made, the petitioner does not



have any vested right to claim promotion and denial of promotion by refusing to accept the recommendation of the Committee cannot be a ground for issuing a mandamus.

In the backdrop of the aforesaid if the case in hand is analyzed, I am of the considered view that it is not a fit case where action for contempt should be initiated. The University has given plausible reasons as to why they cannot give promotion to the petitioner on the post of Professor and finding the nature of order passed by this Court which was an innocuous order passed without granting an opportunity to the University to file counter affidavit, I see no reason to initiate action for contempt against the respondent. The respondents having given justification for the action taken, I see no reason to proceed in the matter. They are discharged from the proceedings and the matter disposed of. Liberty shall be available to the petitioner to claim his promotion or other benefit in accordance with law by approaching an appropriate Court or forum.

(Rajendra Menon, CJ)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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